interference with the Foreman patent and the requirements which the Examiner felt needed to be met. The present amendment, declarations, and attachments provide the requisite prima facie level of support for the interference required by 37 CFR 1.608(b) and MPEP 2308.01 - .02.

In view of the outstanding office action, claims 32 - 37, which recite a pressurization region, have been canceled in the present application. The present application as filed did not disclose this feature. The applicant does not waive right to this feature for future action, since the seal structure described by Mr. Foreman is, in fact, present in applicant's structure.

The Examiner recognizes that the remaining claims 21 - 31 are copied verbatim from allowed published patent application number US 2001/0041482 for the express purpose of instituting an interference, in accord with MPEP § 2304 and 37 CFR 1.604. While this is unusual for such support to exist for verbatim claims, the applicant's representative notes the history and correspondence from Mr. Fisher to Mr. Foreman resulted in Mr. Foreman adopting many of Mr. Fisher's concepts verbatim, leading ultimately to the present situation.

While support for the newly added claims is reprinted herein below from the previous amendment on a claim by claim basis, the Examiner has raised several additional concerns which are addressed herein. More particularly, the examiner states in the outstanding office action that "the specification does not clearly provide a marine mud motor, a drive tube that includes a drive assembly housing, a bearing, in rotational communication between the drive assembly housing and the drive shaft, and a seal configured to restrict contaminants from entering the drive assembly housing, as claimed." The present declarations establish that the words "mud motor" are common language used to refer to applicant's invention in the industry. The remaining components are clearly, and in most cases, identically disclosed and described. The declarations further establish the identity.

With respect to the Examiner's statements that there are additional features that are not clearly disclosed in the specification, applicant's representative refers to the first item, the drive tube and drive assembly as an integral unit as exemplary. The Examiner's attention is directed to the specification on page 11, in lines 6 - 7, where the applicant states: "While bearing housing 210 is most preferably removable from casing 140, it is conceivable that bearing housing 210 could be manufactured to be an integral part thereof." Applicant's representative notes that similar support is found for each of the references as identified in the reprinted claim element references, with the exception of the pressurized area, for which the present amendment cancels the relevant claims.

Consequently, applicant's representative respectfully requests the Examiner refer specifically to the cites to locate or identify the support within applicant's specification for each feature. In the event there remains any issue regarding the choice of specific words or synonyms, the Examiner is invited to propose a set of counts upon which to base the present interference.

Applicant's representative once again respectfully requests that the Examiner evaluate the applicability of MPEP 2305.04 in the present matter until a determination of proper inventorship may be made. Declarations are enclosed that establish the invention of the present subject matter and reduction to practice some four months prior to the nominal provisional filing by Mr. Foreman, and establish the public nature of the reduction to practice at that time. Exhibits A and B are provided herewith, although Exhibit B is oversized and in color. Consequently, applicant's representative is not only faxing the present newspaper article, but also sending a color copy for the convenience of the Examiner.

Present claims 21 - 24 correspond to claims 1 - 4 of allowed published patent application number US 2001/0041482. Claims 5, 12, and 19 of allowed published patent application number US 2001/0041482 were not copied, though applicant's top bearing housing 300 illustrates this thread arrangement. Present claims 25 - 30 correspond to claims 6 - 11 of allowed published patent application number US 2001/0041482.

The Examiner is therefore respectfully requested to reconsider the rejection and institute the interference. Please charge all fees associated with this correspondence to deposit account 17-0155.

Sincerely,

Albert W. Watkins
reg. 31,676
320-363-7296

Enc.

09/756,688 Marked up version of claims showing correspondence of applicant's disclosure with claims copied from pending application

The claims shown below are reprinted for the Examiner's convenience from the previous amendment, and are provided with references from the present application drawings and specification identifying support for the copied claims:

21. A drive assembly for a marine mud motor (100 in fig 1, pg 2, lines 12-18) comprising:

a) an elongate drive tube (140, fig 1), configured for rotatably receiving a drive shaft (130, fig 1) therethrough, wherein a lower end of the drive tube includes;

b) a drive assembly housing (200, fig 1), having a lower end;

c) a bearing (260 - 264, fig 2), in rotational communication between the drive assembly housing and the drive shaft (page 10, lines 12 - 13); and

d) a seal (230, 235, fig 2), contained within the drive assembly housing, configured to restrict contaminants from entering the drive assembly housing (page 9, last line - page 10, first line).

22. A drive assembly as in claim 21, further comprising a seal cap (220, fig 2), coupled to the lower end of the drive assembly housing (200, fig 1), configured for retaining the seal (230, 235, fig 2) within the drive assembly housing (Page 9, last paragraph, second sentence).

23. A drive assembly as in claim 22, wherein:

a) the lower end of the drive assembly housing (200, fig 1) has screw threads (216 fig 3); and

b) wherein the seal cap (220, fig 2) has screw threads (226 fig 3), to allow the seal cap to be threadably connected to the lower end of the drive assembly housing.

24. A drive assembly as in claim 22, wherein the seal cap (220, fig 2) includes at least one seal (230, 235, fig 2) contained within the seal cap (Page 9, last paragraph, second sentence).

25. A drive assembly as in claim 21, wherein the drive assembly housing (200, fig 1) and the drive tube (140, fig 1) are an integral unit (page 11, lines 6 - 7).

26. A drive assembly for a marine mud motor (100 in fig 1, pg 2, lines 12-18), comprising:

a) an elongate drive tube (140, fig 1) having an inside, an outside and a lower end, configured for rotatably receiving a drive shaft (130, fig 1) therethrough, wherein the lower end of the drive tube includes;

b) an enlarged drive assembly housing (200, fig 1) having an inside, an outside, an upper end and a lower end, wherein the inside diameter of the enlarged assembly housing is larger than the inside diameter of the elongate drive tube (fig 3, page 11 lines 2-3);

c) a bearing (260 - 264, fig 2), in rotational communication between the enlarged drive assembly housing (200, fig 1) and the drive shaft (130, fig 1); and

d) a seal (230, 235, fig 2), contained within the enlarged drive assembly housing (200, fig 1), configured to restrict contaminants from entering the enlarged drive assembly housing (page 9, last line - page 10, first line).

27. A drive assembly as in claim 26, wherein the bearing (260 - 264, fig 2) includes an outside diameter larger than the inside diameter (fig 3, page 11 lines 2-3) of the drive tube (140, fig 1).

28. A drive assembly as in claim 26, further comprising a seal cap (220, fig 2), coupled to the lower end of the enlarged drive assembly housing (200, fig 1), configured for retaining the seal (230, 235, fig 2) within the enlarged drive assembly housing (200, fig 1).

29. A drive assembly as in claim 26, wherein:

a) the lower end of the enlarged drive assembly housing (200, fig 1) has screw threads (216 fig 3); and

b) wherein the seal cap (220, fig 2) has screw threads (226 fig 3), to allow the seal cap to be threadably coupled to the lower end of the enlarged drive assembly housing (200, fig 1).

30. A drive assembly as in claim 28, wherein the seal cap (220, fig 2) includes at least one seal (230, 235, fig 2) contained within the seal cap.

09/756,688 Marked up version of claims showing correspondence of applicant's disclosure with claims copied from pending application

31. A drive assembly as in claim 26, wherein the enlarged drive assembly housing (200, fig 1) and the drive tube (140, fig 1) are an integral unit (page 11, lines 6 - 7).